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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,945	11/25/2003	Leonid Bravinski	92953-4	5884
22463 7590 11/26/2008 SMART AND BIGGAR 438 UNIVERSITY AVENUE SUITE 1500 BOX 111 TORONTO, ON M5G2K8 CANADA				
EXAMINER				
SAFAVI, MICHAEL				
ART UNIT		PAPER NUMBER		
3637				
MAIL DATE		DELIVERY MODE		
11/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/721,945

**Applicant(s)**

BRAVINSKI, LEONID

**Examiner**

Michael Safavi

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-25, 30, 62, 69, 70 and 80-109 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 89-98 and 102 is/are allowed.
- 6) ☒ Claim(s) 23-25, 30, 62, 69, 70, 80-88, 99-101 and 103-109 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 08, 2008 has been entered.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 62, 23-25, 69, 82, 83, and 104-107 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to have originally disclosed "a suitable plastic film that is laminated at least to said inner surface and said outer surface...without the need for mechanical fasteners" as now appears within lines 13-16 in claim 62. Such appears as new matter. The specification does not appear to have originally disclosed "wherein the lamination of said inner and outer surfaces with said plastic film permits the material of said first panel member to be slightly compressed by said first connector resulting in the formation of a

rigid or semi-rigid connection between said first panel member and said spacer" as now appears within lines 39-42 in claim 62. Such appears as new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 62, 23-25, 69, 82, 83, and 104-107, 84, 30, 70, 80, 81, 85, 108, 109, 86-88, 99-101, and 103 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 64, lines 9-10, it is not clear as to what is being defined by "said inner and outer surfaces...having been treated with another plastic material..." Do the first and second surfaces have another plastic material attached thereto? Otherwise, it is not clear as to what "having been treated" serves to define. Line 27, to what does "first panel member" refer? Would this be the same as the first panel member introduced at lines 3-4 of claim 1?

Claim 84, lines 12-14, it is not clear as to what is being defined by "a first connector associated with said first panel member...and a second connector associated with said second end". How is the first connector "associated with" said first panel member or a second connector associated with said second end? What for example, does "associated with" serve to define?

Claim 81, line 2, it is not clear as to what is being defined by "said second connector associated with said second panel member". How is the connector

"associated with" said second panel member? What for example, does "associated with" serve to define?

Claim 86, lines 15-18, it is not clear as to what is being defined by "a connector associated with said first panel member...a connector associated with said second panel member...said connectors associated with said first panel". How is a connector "associated with" said first panel member or said second panel? What for example, does "associated with" serve to define? Lines 17-18, "said connectors associated with said first panel" lack antecedent basis within the claim. It is therefore not clear as to what "said connectors associated with said first panel" serves to define.

Claim 99, line 28, "transverse rod member" does not appear to have antecedent basis within the claim. It is therefore, not clear as to what "transverse rod member" serves to define?

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 99 and 100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boeshart '592 in view of Harkenrider et al. '126.**

Boeshart '592 discloses, Figs. 1 and 2 for example, a form panel arrangement with a pair of spaced apart longitudinally oriented foamed plastic panels 34 defining a form space therebetween; a spacer 12 comprising at least one transverse tie rod member 18 secured to and extending between said first and second panels, said transverse rod member having a first end and an opposite second end each being adapted for securing said transverse tie rod to a panel connector member 14, at least one of said panel connectors being releasable from said tie rod; and wherein said at least one connector can be released and said connector and said first panel removed. The shaft portion 28 of cap 14 is receivable axially into a continuous cavity of bushing member 16. The shaft portion 28 is adapted to be interconnected with an end 18b of the tie member 12. The cap member 14 can be axially moved toward the transverse tie member 12, such that a panel member 34 can be compressed between said flange portion 32 of said cap member 14 and said flange portion 26 of said bushing member 16.

Boeshart '592 does not appear to disclose "wherein said first panel member has at least one inner surface treated with a material having enhanced non-adhesive properties, such that the inner surface will tend not to bond extensively to said hardening or hardened concrete".

However, Harkenrider et al. '126 teaches utilization of a plastic film upon the face of the concrete form to provide a relatively non-stick surface. Therefore, to have provided either of the Boeshart form panels 34 with a plastic film upon the inner face of the concrete form 34 to provide a relatively non-stick surface would have been obvious

to one having ordinary skill in the art at the time the invention was made as taught by Harkenrider et al. '126.

**Claims 62, 23-25, 69, 82, 83, 104-107, 99-101, and 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boeshart '592 in view of Harkenrider et al. '126 as applied to claims 99 and 100 above, and further in view of Long, Sr. et al. '104.**

Long, Sr. et al. discloses application of a polypropylene layer upon both surfaces of a foamed plastic panel member. Therefore, to have further provided a polypropylene film along both sides of either Boeshart form panel 34, thus serving to encase the panel in a protective layer as well as allow for interchangeability between sides of each form panel, would have constituted an obvious to one having ordinary skill in the art at the time the invention was made as taught by Long, Sr. et al. Forming the tie 12 or connectors 14/16 of a polypropylene material, thus realizing the benefits of such a widely used plastic material would have constituted a further obvious expedient to one having ordinary skill in the art at the time the invention was made.

Claims 84, 30, 70, 80, 81, 85, 108, 109, and 86-88 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 89-98 and 102 are allowed.

***Response to Arguments***

Applicant's arguments filed September 08, 2008 have been fully considered but they are not persuasive. The teaching suggestion and motivation for providing the Boeshart '592 form assembly with a plastic film upon the face of the concrete form is clearly set forth in the above rejection of claim 62. Further, it is not seen that Harkenrider et al. teaches application of a plastic sheet utilizing fasteners. The passage of Harkenrider alluded to by Applicant refers to fastening the facing sheets 56, 58 to the backing sheets 34, 36. Facing sheets 56, 58, which form the inner surface of the concrete form, are themselves laminated with a plastic sheet.

It has been noted that Applicant references paragraphs [0086] and [0089] with regard to support for the newly added recitation at lines 39-42 of claim 62. However, the passage within paragraphs [0086] and [0089] do not appear to address any lamination or plastic film. If Applicant had meant to reference paragraphs [0085] and [0088], the passages within these paragraphs do not serve to support the newly added recitation at lines 39-42 of claim 62. Nowhere within the original specification is there found any language to "wherein the lamination of said inner and outer surfaces with said plastic film permits the material of said first panel member to be slightly compressed by said first connector resulting in the formation of a rigid or semi-rigid connection between said first panel member and said spacer".



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/  
Primary Examiner, Art Unit 3637

M. Safavi  
November 20, 2008